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Committee on Economic, Social and Cultural Rights

Fifty-fourth session

Summary record of the 2nd meeting

Held at the Palais Wilson, Geneva, on Monday, 23 February 2015, at 3 p.m.

Chairperson: Mr. Sadi

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The meeting was called to order at 3 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

Fourth periodic report of Paraguay (E/C.12/PRY/4; E/C.12/PRY/Q/4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Paraguay took places at the Committee table.*

2. **Mr. Molinas Cárdenas** (Paraguay), introducing the fourth periodic report of Paraguay (E/C.12/PRY/4), said that, as part of its efforts to strengthen the institutional capacity of the State, the Government had launched an innovative tool known as the Recommendation Monitoring System (SIMORE) to ensure transparency in the management of and to guarantee access to public information regarding the country's level of compliance with international recommendations made to it and to identify the challenges to be overcome to achieve the full realization of human rights in Paraguay. The current Government, which had been in power for just over a year and a half, was committed to ensuring the continuity of rights-based policies and programmes aimed at improving the quality of life of the population. Since income disparities needed to be addressed, the Government had declared poverty reduction a national priority and had adopted the National Development Plan 2030, which covered the multiple dimensions of poverty. Other efforts to combat poverty included the National Plan for Reducing Extreme Poverty – Creating Opportunities, the aim of which was to boost the income of vulnerable and impoverished families and to increase their access to social services. It was noteworthy that the country's extreme poverty rate, which had stood at around 18 per cent in 2011, had since dropped to 10 per cent.

3. Initiatives to benefit older persons included a pension programme for older persons in a situation of poverty, which had provided assistance to around 140,000 persons in 2014. In 2015, the Government planned to increase its aid to vulnerable sectors of the population and to build new hospitals and clinics. In an attempt to reduce the high levels of maternal and neonatal mortality, the Government had launched a national campaign which, in the six months following its roll-out in 2014, had succeeded in reducing maternal and neonatal mortality by 38 per cent and 18 per cent respectively.

4. The main challenge facing the Government in education was to improve the quality of the instruction while expanding the coverage of educational services. Although the State invested 4.1 per cent of gross domestic product (GDP) in the education sector, it recognized that a larger investment was needed. Therefore, as of 2014, US$ 322 million from the National Fund for Public Investment and Development (FONACIDE) would be allocated to education.

5. As to child protection, the Government had adopted a series of commitments to enhancing the size and impact of investments with the aim of placing matters concerning children and adolescents high on its agenda. It also had adopted a programme aimed at progressively eradicating child labour through prevention, intervention and protection measures.

6. There were currently 117,150 registered indigenous persons in Paraguay, accounting for 1.8 per cent of the total population. The Constitution guaranteed the right of indigenous peoples to preserve and develop their ethnic identity and to apply their systems of political, social, economic, cultural and religious organization without restriction. The law on the return of ancestral lands to the Sawhoyamaxa indigenous community had been promulgated in 2014. The title to 12,312 hectares of land was now to be transferred to the Yakye Axa

indigenous community, and 21 years after its acquisition by the State, the title to 27,000 hectares of land would revert to the Ayoreo Totobiegosode tribe. The first workshop on consultation and free, prior and informed consent had taken place in August 2014, culminating in a proposal for a legal framework for consultations with the indigenous peoples of Paraguay. Other actions to benefit indigenous peoples included the signature of a memorandum of understanding on food and nutritional security and the consideration by the National Congress of a bill on the health of indigenous peoples. Learning materials had been devised and distributed in 15 indigenous languages, and two training centres had been set up for young people from indigenous backgrounds.

7. The Government had developed and launched a number of national programmes to promote equality between men and women. In 2012, the national body responsible for gender equality had been elevated to the ministerial level. Gender gaps tended to be most prevalent in rural areas. The participation of women in elected and decision-making posts was increasing slowly. Gender-based violence was a persistent problem: the Government's efforts to curb it focused on promoting the economic empowerment of women and their participation in political life.

8. The Ministry of Labour, Employment and Social Welfare had set up around 20 employment offices throughout the country with the aim of providing workers with training that was in step with the prevailing conditions and requirements in the workplace and in the labour market. A law on youth employment had been promulgated in 2013.

9. Decree No. 633/2010 guaranteed access to justice and afforded protection to persons who were in a vulnerable situation on account of poverty, gender, being a part of an indigenous community or disability, and to persons deprived of their liberty.

10. Despite the progress made, the Government was aware that there were still many obstacles to the effective implementation of the Covenant in Paraguay, and it remained committed to overcoming them.

11. **Mr. Ribeiro Leão** (Country Rapporteur) asked whether the National Development Plan 2030 and the National Human Rights Plan had been prepared through a consultation process and, if so, whether civil society and representatives of indigenous communities had participated. He requested information on the human and financial resources allocated to build the capacity of the Ombudsman's Office and on the programmes and plans in place to combat corruption.

12. He requested an update on the status of the bill obliging the State to respect the right of indigenous peoples to be consulted on all development projects that could affect their way of life, territory or environment, which was now before the National Congress. He would be interested to know of any measures taken by the State party to give effect to the rulings handed down by the Inter-American Court of Human Rights concerning the ancestral lands of indigenous peoples.

13. He asked why the anti-discrimination bill, which had been submitted to Congress over seven years ago, had finally been rejected. He requested additional information on the National Plan for Equal Opportunities for Women and Men 2008–2017 and on the measures in place to combat discrimination against women. What had been done to curb the high unemployment rate and to generate employment opportunities for young people? He also wished to know whether the State party planned to set a minimum wage for all workers; what steps it had taken to promote trade union membership; and how it dealt with strikes. Noting that a disproportionally large number of families had no access to social assistance, he asked what actions were planned to remedy that situation.

14. **Mr. Kerdoun** said that the State party was to be commended on its progress in demarcating and returning ancestral lands, promoting consultation and seeking the free,

prior and informed consent of indigenous peoples in matters concerning them. However, there was evidence to suggest that the rights of indigenous peoples were often not guaranteed in practice. He requested information on the practical measures taken by the State party to guarantee their right to water, education and health care. He asked when the State party intended to supply deeds to the 45 per cent of members of such groups who could not prove ownership of their land. What legal guarantees or other forms of assistance were available to those who were facing eviction? He requested additional information on the assistance provided by the National Centre for Indigenous Affairs in the registration of landownership and on Paraguay's cooperation with neighbouring countries on issues affecting indigenous peoples.

15. **Ms. Shin**, referring to reports that around 40 per cent of Paraguayan children were not registered at birth, asked what were the obstacles to such registration. Recalling that the absence of a comprehensive anti-discrimination law could deprive victims of legal protection, she enquired as to the reasons behind the rejection of the anti-discrimination bill by the Senate. Noting that the Ombudsman's Office was also the national human rights institution, she asked why the post of Ombudsman had remained vacant since 2008 and whether the State party planned to appoint a new Ombudsman.

16. **Mr. Schrijver** asked what proportion of the State party's gross domestic product and of the State budget was allocated to the education, health and social services sectors. Noting that Paraguay was a middle-income country, he asked why its tax collection rate was so low; what was the average tax burden per capita; and how it planned to raise the tax collection rate. Lastly, he asked whether there were plans to draft a new anti-discrimination bill following the rejection of the previous one, so as to give substance to the guarantees of non-discrimination contained in the Constitution.

17. **Mr. Kedzia** said the fact that the international instruments ratified by Paraguay prevailed over national laws had prompted the Committee to request specific examples of judicial decisions in which economic, social and cultural rights had been directly enforced. Given that the content of the website cited in the State party's written replies was in Spanish only, he requested the delegation to provide a brief overview of the judicial decisions in question. He asked whether the Paraguayan courts systematically referred to the Covenant and to the Committee's general comments when handing down rulings in cases involving the violation of economic, social and cultural rights. The Committee would also like to receive additional information on the functioning of the Recommendation Monitoring System (SIMORE), with a view to sharing best practices with other States parties to the Covenant.

18. Noting that Paraguay had resigned from the International Coordinating Committee of National Human Rights Institutions following a decision to downgrade the status of its national human rights institution, he asked whether the State party planned to rejoin it in the future. Reports had been received that politicians and interested parties often tried to exert undue influence on judges and prosecutors; that there was a high turnover of judges on account of pressure exerted by the Government; and that corruption was rife in the judiciary. He requested the delegation to comment on those reports and on how the independence of judges and prosecutors was guaranteed. Lastly, he asked how many individuals had been prosecuted and punished for having exerted undue influence over a judge or prosecutor.

19. **Ms. Bras Gomes** suggested that establishing a ministry for indigenous peoples might be a good way to tackle the problems faced by those communities. She wished to know whether the rights set out in article 2, paragraph 2, of the Covenant and in the Committee's general comment No. 20 would be covered in the bill against all forms of discrimination that the Government planned to submit to the National Congress in late 2015. Given that the Recommendation Monitoring System had been recognized as a good

practice, she asked whether it played a substantive role in advising the Government, for example, on discrimination and the rights of indigenous peoples.

20. **Mr. Mancisidor** said that, in 2011, the Special Rapporteur on extreme poverty and human rights had described the system of taxation in Paraguay as regressive. He therefore wished to know whether and how the tax system had changed since 2011 and requested examples of new taxes that had generated resources for social policy and enhancing the enjoyment of economic, social and cultural rights.

21. **Mr. Uprimny Yepes** asked for clarification of the legal status of the Covenant and whether it provided direct protection to citizens. Were citizens able to appeal to a judge for the protection of Covenant rights? He wished to know whether the rights of indigenous peoples to autonomy and to prior, free and informed consent were recognized, particularly with regard to government projects, and whether they could appeal to an independent authority to guarantee those rights. He would appreciate an update on the recommendation of the Inter-American Court of Human Rights that Paraguay should adopt a system for land claims that guaranteed the rights of indigenous peoples to their property, land and culture. In 2011, the Committee on the Elimination of Racial Discrimination had expressed concern at the failure of Paraguay to act on the recommendations of the Truth, Justice and Reparation Commission on ways of countering racial discrimination. He asked whether policies had been introduced to implement those recommendations and, if not, for an explanation of why not.

22. He expressed perplexity at the poor quality of the State party's report and noted that the percentage of the population living in extreme poverty, as shown in table 11 of the core document (HRI/CORE/PRY/2010), indicated that much higher numbers of women lived in extreme poverty compared to men. If that information was correct, it could be viewed as evidence of gender-based discrimination.

23. **The Chairperson** said that, while there had been improvements in a variety of the areas covered by economic, social and cultural rights, he wondered to what extent they had been motivated by the need for compliance with the Covenant and whether the Covenant was viewed as meaningful and relevant to government policy in Paraguay.

24. **Mr. Schrijver** suggested that the procedure for registering trade unions and their members might be considered an obstacle to the enjoyment of the right to form trade unions. He enquired as to whether there were other such obstacles and requested more information about restrictions on the right to strike.

25. **Ms. Bras Gomes**, noting the concerns about conditions for domestic workers reported by the Special Rapporteur on extreme poverty and human rights, requested information on the progress of the bill to update the Labour Code to harmonize domestic workers' conditions with those of others. The delegation should clarify whether domestic workers were covered by social security and to which benefits they were entitled, and whether the "domestic personnel" referred to in the data provided by the State party were the same as domestic workers. With regard to independent and self-employed workers, she asked whether the two terms were interchangeable and requested information on social security and compulsory insurance for such workers. Lastly, and in general, were there any penalties for employers that did not pay social security contributions for their workers?

26. **Mr. Martynov**, pointing out that the quotas introduced for employment of persons with disabilities in the public sector had not been fully implemented, asked why that was the case, what could be done to overcome that problem and whether the Government intended to extend the quota system to the private sector. He requested more information on the tax incentives offered to private companies for the employment of persons with disabilities and asked whether they were effective. Clarification was needed on whether discrimination on the grounds of disability was prohibited, particularly with regard to

labour rights and the reasonable accommodation of persons with disabilities in the workplace. The delegation should indicate whether disaggregated data on employment rights and persons with disabilities was available, as the Committee had requested during its consideration of the State party's previous report. He asked whether the minimum wage was adequate to cover the cost of living. Annual figures on the number of labour inspections conducted and their results should be provided.

27. **Mr. Ribeiro Leão** asked whether the Government had devised policies to tackle the gender gap in average income, which was much higher for men than for women. He wished to know whether Paraguay intended to allow same-sex couples to enjoy the same benefits and protection, such as pensions, as opposite-sex couples.

The meeting was suspended at 4.20 p.m. and resumed at 4.45 p.m.

28. **Mr. Molinas Cárdenas** (Paraguay) said that the standing and size of his delegation reflected the importance accorded by the Government to the Covenant. Many of the measures that had been adopted were consistent with the Covenant and the recommendations of the Committee. It had taken a year to prepare the National Development Plan, which had been drafted on the basis of consultations with different groups, including indigenous peoples, and had been adopted by decree in December 2014.

29. **Ms. Abdo** (Paraguay) said that the National Human Rights Plan, which addressed culturally sensitive matters such as sexual and reproductive health and the rights of the LGBTI community, had eventually been adopted by decree. A framework had been adopted to allow the compliance of the various ministries with the plan to be monitored. A report on implementation would be prepared in 2015 and the initial results discussed with those responsible in order to identify and remedy any deficiencies.

30. **Ms. Ferreira** (Paraguay) said that the parliamentary committee on human rights had drawn up a list of candidates for the position of Ombudsman, but that some candidates had removed their names from the list.

31. **Mr. Richer** (Paraguay) said that the anti-discrimination bill had been submitted to Congress in 2007 and had been reviewed by the Government on numerous occasions. The fact that the Senate had debated the bill, most recently in 2014, was a major step forward, since attempts had been made to reduce it to a question of same-sex marriage and there had been resistance from certain sectors of society, notably the church. A new draft of the bill, planned for submission to the Senate in July 2015, touched on a number of issues raised by the Committee and adhered to the requirements set out in international human rights treaties. Support from the Executive for the bill, which would have an impact on labour policy, education and the fight against poverty, would help to ensure its adoption in 2015.

32. **Mr. Servín** (Paraguay) said that according to the most recent census figures, more than two thirds of the country's nearly 500 indigenous communities had legal title to their land. Since its ratification of the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), Paraguay had been committed to ensuring that indigenous peoples were removed from their lands only with their free and informed consent. Progress had been made towards the formulation of a presidential decree requiring that indigenous communities should be consulted on any public initiative that might affect them.

33. Considerable progress had also been made towards compliance with international judgements against Paraguay in cases involving the Sawhoyamaxa, Yakye Axa and Xákmok Kásek indigenous communities. The National Institute for Indigenous Affairs had budgeted US$ 8 million to compensate the owners of land that was soon to be expropriated and awarded to indigenous communities. Whether all planned expropriations could be carried out depended on funding. Lastly, efforts were under way to ensure that title to some

27,000 hectares of land acquired by the Paraguayan State 20 years earlier was finally transferred to the land's traditional inhabitants, the Ayoreo Totobiegosode indigenous people of the Chaco region.

34. **Ms. Romero Meza** (Paraguay) said that the Recommendation Monitoring System was the outcome of inter-agency cooperation. One of the system's objectives was to strengthen the State's capacity for producing reports on the human rights situation by making information on public agencies' efforts to adopt international human rights recommendations more broadly accessible.

35. **Ms. Montiel** (Paraguay) said that in Paraguay, international human rights treaties had been accorded what was nearly constitutional status. An attempt to withdraw from a treaty or to lower its rank in the domestic legal system required a constitutional amendment. In addition, individuals could appeal directly to the courts for protection in the event of a violation of the rights to which they were entitled under international human rights treaties, including the Covenant.

36. **Mr. Ramírez** (Paraguay) said that the independence of the judiciary was a foundational principle of the Paraguayan Constitution. Judges were to be free from pressure exercised either by other courts or by the parties to any given case. Supreme Court justices could be removed from office only for crimes or misconduct. That did not mean, however, that judicial officials enjoyed impunity. Indeed, in some 50 cases, penalties had been imposed on judicial officials for misconduct or acts of corruption. All persons who felt that their rights had been violated as a result of judicial misconduct could file a complaint with an office created just for that purpose, and plans were being developed to make the complaint forms available in all the country's languages, including Guaraní, the second most widely spoken language in Paraguay.

37. **Ms. García** (Paraguay) said that the current National Plan on Equal Opportunities for Women and Men was the third to date. It had been formulated and put in place on the basis of an evaluation of the two earlier plans and had facilitated the incorporation of a gender perspective into the current National Development Plan. Very recently, for the preparation of the national budget, the Ministry of Finance had adopted gender-based parameters. Other strategies for the advancement of equal opportunity included creating relevant institutions and offices, establishing Secretariats for Women in each of the country's 17 departments and about half of its cities, pushing for legislative changes, developing programmes for the economic empowerment of women, encouraging women to run for public office and providing care for vulnerable women and female victims of trafficking. Lastly, although the recently created Ministry of Women's Affairs had the smallest budget of any of the government ministries, it played an important coordinating role.

38. **Mr. De Schutter** asked when the results of the Paraguayan Government's evaluation of its programmes to combat poverty and extreme poverty would be available. He also requested information on the Paraguayan authorities' understanding of the reasons for which more than 20 per cent of the population, according to figures from the Food and Agriculture Organization of the United Nations, still suffered from malnutrition. Comment on what had caused the apparent failure of a programme begun 10 years earlier to reduce hunger and malnutrition would likewise be welcome. Regarding the increase in soybean production since the early 1990s, which had made Paraguay the world's fourth leading exporter, he wished to know how the authorities viewed the impact on the right to food of displaced smallholders; how landowners without title to the land they occupied were protected from evictions; how the shift towards monocultures affected rural inequality; and what compensation, if any, small farmers received when their land and water were affected by herbicides sprayed from crop-dusters.

39. **Mr. Pillay** asked what steps the State party had taken to set up a unified land registry and to undertake comprehensive agrarian reform that would bring the peasantry into the country's economy and result in a fair distribution of land. What was being done to address the housing deficit and ensure that low-income groups, including indigenous peoples, had access to adequate accommodation? He wished to know whether an indigenous community evicted from its ancestral lands in 2012 had now received compensation. In that connection, information would be welcome on whether the State party intended to enact legislation consistent with the guidelines set out in the Committee's general comment No. 7 on forced evictions.

40. **Ms. Shin** said that although the amendment to the Criminal Code regarding domestic violence was a step forward, it was still not entirely satisfactory, as the violence must be habitual to be punishable, and the victim must cohabit with the perpetrator. She asked whether the State party intended to address those limitations. In view of the country's relatively high rates of maternal mortality, she also asked whether there were any plans to liberalize abortion. More generally, she wished to know what was being done to ensure that women's sexual and reproductive rights were protected.

41. **Ms. Ravenberg** asked how the Government ensured that the large percentage of children whose births were unregistered had the right to the highest attainable standard of physical and mental health and what was being done to address frequent shortages of medicines, medical equipment and ambulances. In view of reports that primary education was often inaccessible, in particular to children with disabilities or to indigenous persons, she wished to know what efforts the Government was making to ensure respect for the basic right to schooling.

42. **Mr. Mancisidor** noted that less than one quarter of schools for indigenous children had separate-sex toilets and asked whether the Paraguayan authorities were aware of the possibly negative effects such a situation could have on girls' willingness to attend school. Regarding the language of instruction, he asked whether it was possible to complete high school in Guaraní and whether any institutions of higher learning offered classes taught entirely in Guaraní. Information on the situation with other minority languages, in particular in primary schools, would also be welcome.

43. **Mr. Kedzia** asked what steps had been taken to ensure that people from disadvantaged groups had access to the Internet.

44. **Mr. Ribeiro Leão** asked whether the Government had taken any measures in response to reports of debt servitude on estates in the Chaco region and requested information about any related investigations or convictions. Access to water had improved considerably, but rural areas were not as well served as urban areas. What measures had the Government adopted to improve access to water and to basic sanitation, in particular for indigenous communities?

The meeting rose at 6 p.m.